

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 15-1508 as follows:

6 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

7 Sec. 15-1508. Report of Sale and Confirmation of Sale.

8 (a) Report. The person conducting the sale shall promptly
9 make a report to the court, which report shall include a copy
10 of all receipts and, if any, certificate of sale.

11 (b) Hearing. Upon motion and notice in accordance with
12 court rules applicable to motions generally, which motion shall
13 not be made prior to sale, the court shall conduct a hearing to
14 confirm the sale. Unless the court finds that (i) a notice
15 required in accordance with subsection (c) of Section 15-1507
16 was not given, (ii) the terms of sale were unconscionable,
17 (iii) the sale was conducted fraudulently or (iv) that justice
18 was otherwise not done, the court shall then enter an order
19 confirming the sale. The confirmation order may also:

20 (1) approve the mortgagee's fees and costs arising
21 between the entry of the judgment of foreclosure and the
22 confirmation hearing, those costs and fees to be allowable
23 to the same extent as provided in the note and mortgage and

1 in Section 15-1504;

2 (2) provide for a personal judgment against any party
3 for a deficiency; and

4 (3) determine the priority of the judgments of parties
5 who deferred proving the priority pursuant to subsection
6 (h) of Section 15-1506, but the court shall not defer
7 confirming the sale pending the determination of such
8 priority.

9 (b-5) Notice with respect to residential real estate. With
10 respect to residential real estate, the notice required under
11 subsection (b) of this Section shall be sent to the mortgagor
12 even if the mortgagor has previously been held in default. In
13 the event the mortgagor has filed an appearance, the notice
14 shall be sent to the address indicated on the appearance. In
15 all other cases, the notice shall be sent to the mortgagor at
16 the common address of the foreclosed property. The notice shall
17 be sent by first class mail. Unless the right to possession has
18 been previously terminated by the court, the notice shall
19 include the following language in 12-point boldface
20 capitalized type:

21 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO
22 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
23 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
24 ILLINOIS MORTGAGE FORECLOSURE LAW.

25 (c) Failure to Give Notice. If any sale is held without
26 compliance with subsection (c) of Section 15-1507 of this

1 Article, any party entitled to the notice provided for in
2 paragraph (3) of that subsection (c) who was not so notified
3 may, by motion supported by affidavit made prior to
4 confirmation of such sale, ask the court which entered the
5 judgment to set aside the sale, ~~provided that such party shall~~
6 ~~guarantee or secure by bond a bid equal to the successful bid~~
7 ~~at the prior sale.~~ Any such party shall guarantee or secure by
8 bond a bid equal to the successful bid at the prior sale,
9 unless the party seeking to set aside the sale is the
10 mortgagor, the real estate sold at the sale is residential real
11 estate, and the mortgagor occupies the residential real estate
12 at the time the motion is filed. In that event, no guarantee or
13 bond shall be required of the mortgagor. Any subsequent sale is
14 subject to the same notice requirement as the original sale.

15 (d) Validity of Sale. Except as provided in subsection (c)
16 of Section 15-1508, no sale under this Article shall be held
17 invalid or be set aside because of any defect in the notice
18 thereof or in the publication of the same, or in the
19 proceedings of the officer conducting the sale, except upon
20 good cause shown in a hearing pursuant to subsection (b) of
21 Section 15-1508. At any time after a sale has occurred, any
22 party entitled to notice under paragraph (3) of subsection (c)
23 of Section 15-1507 may recover from the mortgagee any damages
24 caused by the mortgagee's failure to comply with such paragraph
25 (3). Any party who recovers damages in a judicial proceeding
26 brought under this subsection may also recover from the

1 mortgagee the reasonable expenses of litigation, including
2 reasonable attorney's fees.

3 (e) Deficiency Judgment. In any order confirming a sale
4 pursuant to the judgment of foreclosure, the court shall also
5 enter a personal judgment for deficiency against any party (i)
6 if otherwise authorized and (ii) to the extent requested in the
7 complaint and proven upon presentation of the report of sale in
8 accordance with Section 15-1508. Except as otherwise provided
9 in this Article, a judgment may be entered for any balance of
10 money that may be found due to the plaintiff, over and above
11 the proceeds of the sale or sales, and enforcement may be had
12 for the collection of such balance, the same as when the
13 judgment is solely for the payment of money. Such judgment may
14 be entered, or enforcement had, only in cases where personal
15 service has been had upon the persons personally liable for the
16 mortgage indebtedness, unless they have entered their
17 appearance in the foreclosure action.

18 (f) Satisfaction. Upon confirmation of the sale, the
19 judgment stands satisfied to the extent of the sale price less
20 expenses and costs. If the order confirming the sale includes a
21 deficiency judgment, the judgment shall become a lien in the
22 manner of any other judgment for the payment of money.

23 (g) The order confirming the sale shall include,
24 notwithstanding any previous orders awarding possession during
25 the pendency of the foreclosure, an award to the purchaser of
26 possession of the mortgaged real estate, as of the date 30 days

1 after the entry of the order, against the parties to the
2 foreclosure whose interests have been terminated.

3 An order of possession authorizing the removal of a person
4 from possession of the mortgaged real estate shall be entered
5 and enforced only against those persons personally named as
6 individuals in the complaint or the petition under subsection
7 (h) of Section 15-1701 and in the order of possession and shall
8 not be entered and enforced against any person who is only
9 generically described as an unknown owner or nonrecord claimant
10 or by another generic designation in the complaint.

11 Notwithstanding the preceding paragraph, the failure to
12 personally name, include, or seek an award of possession of the
13 mortgaged real estate against a person in the confirmation
14 order shall not abrogate any right that the purchaser may have
15 to possession of the mortgaged real estate and to maintain a
16 proceeding against that person for possession under Article 9
17 of this Code or subsection (h) of Section 15-1701; and
18 possession against a person who (1) has not been personally
19 named as a party to the foreclosure and (2) has not been
20 provided an opportunity to be heard in the foreclosure
21 proceeding may be sought only by maintaining a proceeding under
22 Article 9 of this Code or subsection (h) of Section 15-1701.

23 (Source: P.A. 95-826, eff. 8-14-08.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.